

REMARKS

Claims 42, 44-51, 54, 58, and 64-78 are pending. Applicants have amended claims 42, 66, and 78. No new matter is added by these amendments.

Applicants confirm that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made.

Applicants appreciate the Examiner's acknowledgement that claims 42, 44-51, 54, 58, 64, and 64 are in condition for allowance.

Claims 66-78 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent 6,146,888 or WO 94/24274 (collectively, "Smith") in view of Gradwohl or the combination of Ericson and Xu. The Examiner contends that it would have been obvious to combine the selection method of Smith with the teaching of the other cited documents which describe neural progenitor specific expression and promoter sequences of the Pax 6 gene (Ericson and Xu) or the Math4A gene (Gradwohl). Applicants traverse.

The method of generating a culture of neural progenitor cells defined by Claim 66 (and dependent claims 67-78) specifies a step of inducing differentiation of the pluripotent cell into a neural progenitor cell or a mixed population of cells including neural progenitor cells before carrying out selection for neural progenitor cells. Applicants have amended Claim 66 to emphasize this step by specifying that the pluripotent cell is cultured in the presence of a factor that induces differentiation of the cell into a neural progenitor cell. Support for this amendment may be found in the specification at page 3, lines 21-23.

Neither of the Smith references teaches or suggests the induction of differentiation of a pluripotent cell down a specific lineage prior to carrying out selection.

More importantly, neither of the Smith references teaches or suggests culturing the pluripotent cell in the presence of a factor that induces differentiation of the cell into a neural progenitor cell. This feature of Claim 66 would not have been obvious from the combination of Smith with Ericson and Xu, or with Gradwohl, which simply describe the expression profiles and elements of the sequences of two neural progenitor cell specific genes. Thus, none of the cited documents, alone or in combination, suggests that neural progenitor cells can be purified or enriched by introducing a selectable marker under the control of a promoter of a gene that is differentially expressed in neural progenitor cells into a pluripotent cell, culturing the pluripotent cell in the presence of a factor that induces differentiation of the cell into a neural progenitor cell, and then carrying out selection for neural progenitor cells by exploiting the differential expression of the selectable marker.

Applicants respectfully submit that claims 66-78 are inventive in view of the documents cited by the Examiner and request that the rejection under 35 U.S.C. §103(a) be withdrawn. Accordingly, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

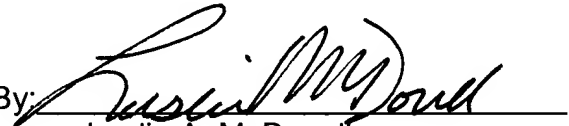
Applicants believe that any extension of time required for entry of this Amendment and Response is accounted for in the accompanying Petition for Extension of Time. However, in the event of an error, please grant any additional extension of time required and charge any additional required fees to deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: June 22, 2004

By:

A handwritten signature in black ink, appearing to read "Leslie A. McDonell", written over a horizontal line.

Leslie A. McDonell
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